

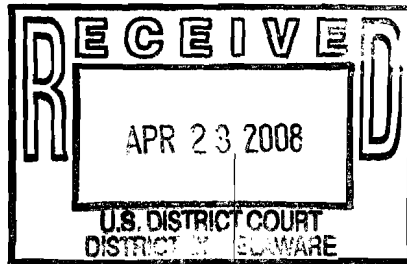
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**RESPONSE TO AND MOTION FOR REDRESS IN
DISTRICT COURT
FOR CIVIL ACTION NO. 06-320-GMS**

MANUEL NIEVES,
PETITIONER,

v.

PERRY PHELPS, WARDEN, AND
JOSEPH R. BIDEN, III,
RESPONDANTS.



CIVIL ACT. NO. 06-320-GMS

**MANUEL NIEVES, PRO-SE PETITIONER ASKS THIS COURT TO REVIEW
ITS' DECISION OF THE CASE CITED ABOVE FOR THE FOLLOWING
REASONS:**

1. III. DISCUSSION A. (C) MENTIONS THE RECOGNIZED “NEW” RIGHT MADE RETROACTIVE BY THE UNITED STATES SUPREME COURT.
 2. NIEVES’ CONVICTION BECAME FINAL, AND THE ONE-YEAR LIMITATIONS PERIOD BEGAN TO RUN, ON MAY 12, 2003. MAKING HIS TIME EXPIRE AT MAY 12, 2004 AS INDICATED ON PAGE 3 AND 4 OF THE DECISION OF THE COURT DATED APRIL 16, 2008.
 3. **CRAWFORD v WASHINGTON** 124 S.CT. 1354 (MARCH 8, 2004) THE SUPREME COURT OF THE UNITED STATES SAID “**THE CONFRONTATION CLAUSE BARS** THE STATES FROM INTRODUCING INTO EVIDENCE OUT-OF-COURT STATEMENTS WHICH ARE TESTIMONIAL IN NATURE UNLESS THE WITNESS
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IS UNAVAILABLE AND THE DEFENDANT HAD A PRIOR OPPORTUNITY TO CROSS-EXAMINE THE WITNESS, REGARDLESS OF WHETHER THE STATEMENTS ARE DECLARED RELIABLE.” ALSO SEE **BRUTON v U.S.** 88 S.CT. 1620 AND **LEE** 106 S.CT. 2056.


4. **DEFENDANTS CASE MIRRORS THIS CASE AND INVOLVES TESTIMONY VIDEO TAPED WITHOUT FOLLOWING DELAWARE’S OWN PROCEDURES FOR VIDEO-TAPING CHILD WITNESSES FOR CROSS EXAMINATION DURING TAKING OF STATEMENTS USED IN COURT.**
 5. **THE SUPREME COURT IN *DANFORTH v. MINNESOTA* NO. 06-8273 ARGUED OCTOBER 31, 2007—DECIDED FEBRUARY 20, 2008 UNDER THE OPINION DELIVERED BY JUSTICE STEVENS SAID “NEW” CONSTITUTIONAL RULES ANNOUNCED BY THIS COURT THAT PLACE CERTAIN KINDS OF PRIMARY INDIVIDUAL CONDUCT BEYOND THE POWER OF THE STATES TO PROSCRIBE, AS WELL AS “WATER-SHED” RULES OF CRIMINAL PROCEDURES, {MUST} BE APPLIED IN ALL FUTURE TRIALS, ALL CASES PENDING ON DIRECT REVIEW, AND ALL FEDERAL HABEAS CORPUS PROCEEDINGS. ALL OTHER NEW RULES OF CRIMINAL PROCEDURE MUST BE APPLIED IN FUTURE TRIALS AND IN CASES PENDING ON DIRECT REVIEW, BUT MAY NOT PROVIDE THE BASIS FOR A FEDERAL COLLATERAL ATTACK ON A STATE-COURT CONVICTION. THIS IS THE SUBSTANCE OF THE “TEAGUES RULE” DESCRIBED BY JUSTICE O’CONNOR IN HER PLURALITY IN *TEAGUE v LANE*, 489 U.S. 288 (1989). THE QUESTION IN THIS CASE IS WHETHER TEAGUE CONSTRAINTS THE AUTHORITY OF STATE COURTS TO GIVE BROADER EFFECT TO NEW RULES OF CRIMINAL**
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PROCEDURES THAN IS REQUIRED BY THAT OPINION. WE HAVE NEVER SUGGESTED THAT IT DOES, NOW HOLD THAT IT DOES NOT. WE HELD THAT CRAWFORD SHALL NOT BE APPLIED RETROACTIVE ON COLLATERAL REVIEW.”

6. THE CASE AT HAND MIRRORS THE CRAWFORD CASE IN THAT BOTH CASES DEAL WITH VIDEO-TAPED TESTMONY GIVE TO THE JURY DURING TRIAL WITHOUT PRIOR CROSS-EXAMINATION TO INSURE THAT NO COERCION OF WITNESS HAD OCCURRED AND TO INSURE THE TRUTHFULNESS OF THE VIDEO NOT THE WITNESS.

FOR THE ABOVE REASONS PETITIONER ASK THIS COURT TO REVERSE ITS’ DECISSION AND REMAND BACK TO SUPERIOR COURT.

Monday, April 21, 2008


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MANUEL NIEVES

1181 PADDOCK RD

SMYRNA DE. 19977

Certificate of Service

I, MANUEL NIEVES, hereby certify that I have served a true

And correct cop(ies) of the attached: MOTION To Redress

_____ upon the following
parties/person (s):

TO: Dept of Justice
State Office Building
820 N. French St.
Wilmington
Delaware 19801

TO: _____

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE, and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 21st day of APRIL, 2008

manuel nieves

IM MANUEL NIEVES
SBI# 464723 UNIT E-D-35
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

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Office of the Clerk
Delaware State District Court
844 W. King Street, Suite 100
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19801-3570
Re: CA # 06-320-GMS

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